IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO.66 OF 2004

Mrs.Preeti Rajiv Rege ...Appellant
Vs.
Mr.Rajiv Parshuram Rege ...Respondent

Mr.Vijay G. Mujumdar Adv. for Appellant

CORAM: H.L.GOKHALE &
SMT.R.S.DALVI,JJ.
DATED: 19TH SEPTEMBER, 2005

P.C.

1. Heard Mr.Mujumdar in support of this Appeal. The Respondent has been served by substitute service through publication in a news paper at Pune. The Affidavit of service affirmed by the son of the Appellant is filed. A photocopy of the extract of the publication in the news paper is enclosed therewith. The service is therefore, complete. Respondent is not present inspite thereof.

2. The Appeal challenges the order passed by the Executing Court on the Darkhast moved by the Appellant for recovering the amount of Rs.14 lakhs as stated in the order on the Darkhast No.153 of 2001, which the Appellant had moved for collecting the arrears of maintenance and various other benefits from the Decree of Divorce.

3. The Appellant had made two fold prayers; firstly she had prayed that the rent received by the Respondent from M/s.Ericsson be attached in the hands of the Garnishee itself. The second prayer was to attach and sell the office premises at Office No.6, 2nd floor, A-wing, Shankar Parvati Complex, 198/2, Dhole Patil Road, Pune-411 001. The learned Judge has dismissed the application on the ground that the Decree and the Order on the Divorce Petition being numbered F.No.144 of 1998 is silent and does not mention with respect to this flat or the income of rent from the Garnishee.

4. Mr.Muzumdar submits that obviously these particulars will not be there in the Decree which is now sought to be executed. He therefore, submits that the learned Judge was in error.

5. We accept the submissions of Mr. Muzumdar that the learned Judge is in error. These particulars will not be there in the Decree. They are now given in the Darkhast.

6. In the circumstances we set aside the orders passed by the learned Judge on 22nd March, 2004, restore the Darkhast No.153 of 2001 to the file of the Family Court No.2 at Pune and direct the learned Judge to issue notices to the Respondent as well as to

M/s.Ericsson for attachment of the rent and attachment and sale of the office premises. The learned Judge is expected to take these steps expeditiously.

. Appeal is allowed in the above terms.

(H.L.GOKHALE,J.)

(SMT.R.S.DALVI,J.)